

## OFFICIAL COPY

Fresno, California

December 7, 2004

The City Council met in regular session at the hour of 9:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager  
 Andy Souza, Assistant City Manager  
 Hilda Cantu Montoy, City Attorney  
 Yolanda Salazar, Assistant City Clerk

Councilmember Dages gave the invocation and President Castillo led the Pledge of Allegiance.

## SPCA PET OF THE MONTH - ACTING PRESIDENT PEREA

The pet of the month, a Chow-Chow mix puppy, was showcased.

Visiting students from Del Mar Elementary School were recognized and welcomed.

PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING TO THE FINANCE DEPARTMENT FOR ITS COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) FOR THE FISCAL YEAR ENDING JUNE 30, 2003 - MAYOR'S OFFICE

Presented by City Manager Hobbs.

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**APPROVE MINUTES OF NOVEMBER 30, 2004**

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the minutes of November 30, 2004, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

REITERATION OF PRIOR REQUEST TO STAFF TO LOCATE \$2,500 FOR THE DIXIELAND SOCIETY - COUNCILMEMBER DAGES

Request made with Assistant City Manager Souza advising the matter was still on the radar screen.

REITERATION OF PRIOR REQUEST TO STAFF FOR PEACH AVENUE BETWEEN FLORENCE AND RAILROAD AVENUE TO BE ASPHALTED FOR THE SAFETY OF STUDENTS WALKING TO SCHOOL - COUNCILMEMBER DAGES

Request made.

THANK YOU TO CHIEF DYER AND CAPT. GARNER FOR SUPPORT OF THE SOUTHWEST POLICING DISTRICT'S ANNUAL CHRISTMAS LUNCH AT THE WESTSIDE BOYS & GIRLS CLUB TO THANK THE COMMUNITY FOR COLLABORATION ON BLOCK PARTIES AND BRINGING NEIGHBORHOODS TOGETHER - COUNCILMEMBER STERLING

Commendation made.

REQUEST FOR REPORT ON PROJECTED SAVINGS DUE TO THE PRIVATIZATION OF THE CONVENTION CENTER AND PASSAGE OF MEASURE "Z" - ACTING PRESIDENT PEREA

Request made with City Manager Hobbs and Assistant City Manager Souza responding.

CONGRATULATIONS TO CLOVIS WEST HIGH SCHOOL FOOTBALL TEAM ON THEIR VALLEY CHAMPIONSHIP GAME THIS COMING FRIDAY AGAINST STOCKDALE - COUNCILMEMBER DUNCAN

Commendation made.

CONGRATULATIONS TO COACH REYES, THE FRESNO HIGH SCHOOL FOOTBALL TEAM AND TEACHERS ON THEIR VALLEY CHAMPIONSHIP GAME - COUNCILMEMBER BOYAJIAN

Commendation made.

APPOINTMENTS TO THE 501( C)(3) NON PROFIT BOARD FOR THE CHAFFEE ZOO - PRESIDENT CASTILLO

President Castillo asked Council keep in mind the Board of Supervisors will continually make appointments to the board after terms expire and therefor always have a say. Brief discussion ensued on the deadline for applications and whether or not the County can impose continual appointments on a 501( c)(3), with Assistant City Manager Souza and City Attorney Montoy responding and stating the appointment issue would be looked into.

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#### **APPROVE AGENDA:**

**(10:15 A.M.)** HEARING TO CONSIDER ADOPTING A RESOLUTION OF NECESSITY TO VACATE A PORTION OF N. MARKS AVENUE SOUTH OF FREEWAY 99 AND AUTHORIZING AND DIRECTING THE PUBLIC WORKS DIRECTOR TO EXECUTE QUITCLAIM DEEDS TO THAT FEE TITLE SO THE VACATED AREAS SHALL PASS TO CENTRAL VALLEY RV OUTLET

1. RESOLUTION - ORDERING THE VACATION OF THE ABOVE AND AUTHORIZING EXECUTION OF NECESSARY DOCUMENTS

Continued to January 11, 2005, at 10:30 a.m.

#### **(2:00 P.M. #3) CLOSED SESSION:**

**(A-1)** CONFERENCE WITH LABOR NEGOTIATOR - INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (IAFF)

Laid over one week.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, as modified, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

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144-187

12/7/04

**ADOPT CONSENT CALENDAR:**

**(1-A) RESOLUTION NO. 2004-454** - APPROVING THE FINAL MAP OF TRACT NO. 5228 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, WEST SIDE OF S. FOWLER AT THE E. CALIFORNIA AVENUE ALIGNMENT IN COUNCIL DISTRICT 5

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE
2. AUTHORIZE THE FIRE CHIEF TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT REQUIRING CERTAIN FIRE PROTECTION TO BE PROVIDED AND MAINTAINED
3. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

**(1-B)** AWARD A ONE YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO NATIONAL WATERWORKS OF FRESNO IN THE AMOUNT OF \$107,067.02 FOR TAPPING SLEEVES AND TAPPING GATE VALVES

**(1-C)** ACCEPT A SAFE ROUTES TO SCHOOL GRANT FROM THE STATE OF CALIFORNIA IN THE AMOUNT OF \$258,500 FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT THE CLINTON AND NINTH STREET INTERSECTION NEAR WISHON ELEMENTARY SCHOOL

**1. RESOLUTION NO. 2004-455** - 47<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$254,200 AND REALLOCATING \$13,300 FOR THE CLINTON/NINTH TRAFFIC SIGNAL PROJECT

**(1-D)** ADOPT A SIDE LETTER AGREEMENT BETWEEN THE CITY AND THE FRESNO CITY EMPLOYEES ASSOCIATION (FCEA) NON-SUPERVISORY WHITE COLLAR UNIT 03, TO BE ATTACHED TO THE CURRENT MEMORANDUM OF UNDERSTANDING (MOU), ALLOWING FOR A CASH-OUT OF VACATION LEAVE

**(1-E)** ADOPT A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION 100 (IBEW-UNIT 07), COVERING THE PERIOD JULY 1, 2004, THROUGH JUNE 30, 2007

**(1-F)** APPROVE A 10-YEAR LEASE TO PROVIDE FOR THE RELOCATION OF THE PUBLIC WORKS, CONSTRUCTION MANAGEMENT DIVISION OFFICE FROM 1919 E. MCKINLEY AVENUE TO 1721 VAN NESS, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE SAME

**(1-G) RESOLUTION NO. 2004-456** - APPROVING THE SUMMARY VACATION OF PORTIONS OF THE RELINQUISHMENT OF ACCESS RIGHTS ALONG THE WEST SIDE OF MILBURN AVENUE NORTH OF HERNDON AVENUE

**(1-H)** APPROVE SALE OF A 2.5 ACRE VACANT CITY-OWNED PARCEL LOCATED AT THE SOUTHEAST CORNER OF NORTH AND CLARA AVENUES TO A PRIVATE PARTY FOR THE PRICE OF \$40,000, AND AUTHORIZE THE INTERIM PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS, SIGN OTHER TRANSACTION DOCUMENTS AS NEEDED, AND SIGN THE GRANT DEED ON BEHALF OF THE CITY

**(1-I)** INTRODUCTION OF **BILL NO. B-136** AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PROCESSING OF CLAIMS AGAINST THE CITY

**(1-J) BILL NO. B-135 - ORDINANCE NO. 2004-132** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PARKING, STOPPING, STANDING AND ADHERENCE TO SIGNS AND CURB MARKINGS AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT

**(1-K) BILL NO. B-125 - ORDINANCE NO. 2004-133** - ADDING TO THE FRESNO MUNICIPAL CODE RELATING TO POSTING PLACARDS ON DANGEROUS BUILDINGS FOR FIREFIGHTER SAFETY

**(1-L) BILL NO. B-134 - ORDINANCE NO. 1004-134** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO

## DESIGNATING VIOLATIONS OF THE FRESNO FIRE CODE AND PUBLIC NUISANCES

**144-188****12/7/04**

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

**(1-M) INTRODUCTION OF BILL NO. B-137 ADDING TO THE FRESNO MUNICIPAL CODE RELATING TO PROHIBITING SMOKING IN PARKS**

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-137 introduced before the City Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo  
 Noes : Duncan  
 Absent : None

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**(9:45 A.M.) HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF THE FOLLOWING PERMANENT EASEMENTS AND RIGHTS-OF-WAY FOR PUBLIC STREET PURPOSES FROM REAL PROPERTY LOCATED ON ELM AVENUE BETWEEN JENSEN AND NORTH AVENUES: APN 328-150-10 LOCATED AT THE NORTHWEST CORNER OF ELM AND NORTH AVENUES OWNED BY SUN & LION, INC., AND APN 479-040-50 LOCATED AT 2706 S. ELM AVENUE OWNED BY JAVIER GUTIERREZ MANZO (PROPERTY LOCATED IN COUNCIL DISTRICT 3**

**1. RESOLUTION NO. 2004-457 - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF THE ABOVE PROPERTIES**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Supervising Real Estate Agent Balch reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

Upon call, no one wished to be heard and President Castillo closed the public hearing.

Mr. Balch responded briefly to questions of Councilmember Boyajian relative to what the public interest and necessity was, what the project entailed, and what the benefit would be to the city. Councilmember Sterling spoke in support of the issue and made a motion to approve staff's recommendation. Mr. Balch clarified issues and responded to questions of President Castillo relating to the delinquent taxes owed by one property owner and if the property would be debt free for the city of Fresno.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-457 stating that the public interest and necessity require the property and authorizing eminent domain action as provided by the California Code of Civil Procedure hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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**(10:00 A.M.) HEARING TO CONSIDER ADOPTION OF TEXT AMENDMENT NO. TA-03-02 RELATING TO SECOND DWELLINGS IN SINGLE FAMILY ZONED LOTS****1. BILL NO. B-133 (INTRODUCED 11/30/04) - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO SECOND DWELLINGS IN SINGLE FAMILY ZONED LOTS AND STREAMLINING THE PROCESS TO REFER SPECIAL PERMITS TO THE CITY COUNCIL**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Stiglich gave an

extensive review of the issue, all as contained in the staff report as submitted, and recommended approval.

**144-189**

**12/7/04**

Speaking in support of the issue were Joni Johnson, Fresno Neighborhood Alliance, who also requested a condition be applied requiring an architectural review of accessory living quarters; and Claude Saiz, Building Contractor.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Planning & Development Director Yovino responded to questions of Councilmember Duncan on whether the ordinance complied with the state law and if staff felt any changes were needed, with Mr. Yovino adding Ms. Johnson's concern was valid and that could be clarified in the ordinance bill. City Attorney Montoy stated the condition would be added and clarified since it was an amendment the amended ordinance would come back next week for adoption. A motion and second was made to approve staff's recommendation and the amendment as noted. Mr. Yovino and Ms. Montoy responded to questions of President Castillo and Councilmember Boyajian relative to whether this could be made to apply to all other additions on properties, what the impetus was statewide and if this ordinance complies with that, intent of the law, and requirements/conditions for green space.

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, staff recommendation approved, the above entitled Bill No. B-133 amended to require an architectural review of accessory living quarters, and the amended Bill to be brought back in one week for adoption, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

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**(2-A) AWARD CONTRACTS FOR NO NEIGHBORHOOD LEFT BEHIND (NNLB)**

1. AWARD A CONTRACT TO MJ MENEFEE CONSTRUCTION, INC. OF FOWLER FOR THE NNLB PLAN AND CONSTRUCTION OF NEIGHBORHOOD INFRASTRUCTURE - CONTRACT 1
2. AWARD A CONTRACT TO CONSTRUCTION DEVELOPMENT SYSTEMS OF FRESNO FOR THE NNLB PLAN AND CONSTRUCTION OF NEIGHBORHOOD INFRASTRUCTURE - CONTRACT 2

General Services Director Nerland reviewed the issue as contained in the staff report as submitted **(2 - 0)** and recommended the contracts be awarded.

Councilmember Duncan commended Mr. Nerland on the issue and the city manager on the independent evaluation of the process, spoke in support of the process stating this would be a win-win for everyone, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Lengthy discussion ensued. Assistant Public Works Director Elam, Interim Public Works Director Kirn, and Assistant City Manager Ruiz responded to numerous questions, comments and/or concerns of Acting President Perea, Councilmembers Boyajian, Calhoun and Sterling, and President Castillo, and/or clarified issues relative to the project's schedule, complaint process, private bidders hiring locally, how staff will ensure projects begin/start at the same time, how the projects will be compared, why local hires could not be mandated, oversight on training, request for information on numbers of workers trained and hired, pre-construction meetings being very informative, if this project will be handled the same as other neighborhood projects are normally handled, Councilmember Calhoun stating poverty knows no geographic boundaries and expressing concern with hiring from specific areas, if there was a written city policy on hiring, Councilmember Sterling's understanding that it was in writing that hires would come from within the areas to be improved, request for assurance that locals will be hired, staff committing to continual hiring/training updates to Council, and if the streets division was allowed to bid on these contracts. President Castillo spoke in opposition to the motion, stated he never supported privatization, expressed his strong concern that the streets division was not allowed to bid and show they could do the work for less, spoke to a project in his district involving just one street which resulted in a savings of \$35,000 because city crews did the work (and emphasized it was only one street), stated this was unfortunate for the taxpayers because their money was being used and they were not being given the benefit of the doubt that city crews could do the job for a lot less, and stated Council was elected to represent the taxpayers and this was not a true representation of their tax dollars.

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, a contract hereby

awarded to MJ Menefee Construction, Inc., in the amount of \$1,827,110 for the NNLB plan and construction of neighborhood infrastructure, Contract 1, and a contract awarded to Construction Development Systems in the amount of \$1,843,536 for the NNLB plan and construction of neighborhood infrastructure, Contract 2, by the following vote:

**144-190**

**12/7/04**

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling  
 Noes : Castillo  
 Absent : None

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**RECESS - 10:44 A.M. - 11:00 A.M.**

**(10:30 A.M.) WORKSHOP AND DIRECTION REGARDING CALTRANS/CITY PARTNERSHIP**

Assistant City Manager Ruiz noted this workshop was in response to the on-going discussion between Caltrans and the City on how to make necessary street and highway improvements to accommodate existing and projected vehicular traffic and how to finance and construct those improvements; advised three key issues were: (1) should the City collect an impact fee from new development, (2) should the fees be established in accordance with CEQA, a nexus test and proportionality, and (3) should the City pursue the establishment of state transportation facility impact fees regardless of whether other governmental entities within Fresno County or a nearby region choose to similarly participate; and spoke to staff's current work process with Caltrans and stated a good partnership had been created and both parties were moving forward on a variety of fronts.

Alan McCuen, Caltrans District 6, spoke to the need to maintain the freeway system; stated Caltrans was in favor of new development participating and being responsible for mitigating their fair share of impacts; spoke to (1) the survey of different jurisdictions on impact fees and need for the City and Caltrans to work together to make that more complete, (2) the disagreement on the authority to provide traffic improvements and mitigation on state highways and local roads, (3) development impacts, fees, and responsibilities, and (4) advantages of impact fee programs versus the more traditional project-by-project approach for mitigation; and introduced the next presenter, Craig Pope.

Craig Pope, Director, Kern County Roads Department, spoke to impact fee program that was established for the Bakersfield metropolitan area, including successes and mistakes, and to how that fee has been of benefit to the area **(3 - 0)**.

Extensive discussion ensued. Mr. McCuen and Moses Stites, Caltrans, responded to numerous questions and comments of Councilmember Duncan relative to amount of fees collected by Caltrans so far, what projects the fees have gone to, the voluntary fee being paid by the developer of the Fresno 40 Development Project and where that fee would go to, if fees go to new projects or back-fill existing projects, concern with fees being collected and nothing changing or coming back to the city, need for a regional nexus study and why Caltrans "fights" the city in moving forward on that, need for fees to go where they need to go (specific projects), and e-mails on local and personal issues being sent on Caltrans' time. Councilmember Calhoun thanked staff and Caltrans on the issue, stated all were moving in a good direction, thanked Mr. Pope for his presentation, stated he supported a regional impact fee, and relative to Measure "C" stated plans needed to be made on the assumption we will *not* have those funds. Mr. Pope, Mr. Stites, Mr. McCuen and Planning & Development Director Yovino responded at length to questions/comments of Councilmember Boyajian relative to how Kern County dealt with the nexus for fair share, if a nexus study was conducted to support the program, various questions on the study including who was involved, the traffic study and off-ramp deficiency issues, if CEQA or fair share was more difficult, Caltrans' comments on projects and what Caltrans wants developers to pay for, if Caltrans has talked with the BIA about impact fees, Fresno County's policy and Caltrans' working relationship with the county, need to get jurisdictions together, what Madera County was doing in this regard, indemnifying other jurisdictions on requirements, difference between nexus study for UGM fees and state facilities, the city of Fresno being a catalyst and needing to take the lead, this discussion being a good start in working with Caltrans, need to devise a plan and bring in Fresno County, and giving direction to staff this date. A motion was made to direct staff to provide an update report in 6 months on the city's current work process with Caltrans, which was later acted upon.

Discussion continued. Mr. McCuen, City Attorney Montoy, Councilmember Boyajian, Mr. Yovino, Interim Public Works Director Kirn and Mr. Pope responded to questions and/or comments of President Castillo and Acting President Perea relative to staff's current work with Caltrans, the motion and if it implied inclusion of a regional nexus study and what players would be targeted, cost for a regional study and who would pay for it, a deficiency study being underway currently and if a nexus study was next, what percentage of Caltrans' budget comes back to Fresno County, and concern with fees being passed on to home buyers and people being unable to afford homes.

Councilmember Calhoun stated he supported the motion as it was asking for a report in 6 month but clarified he would not support any specific direction being given as staff and Caltrans were doing fine and making progress, and upon his question Mr. Montoy confirmed th motion was only asking for an update on what staff was currently working on with Caltrans and spoke briefly to her perspective of the issue.

**144-191**

**12/7/04**

Ms. Montoy, Chief Assistant City Attorney Sanchez, Mr. McCuen and Mr. Stites responded to questions of President Castillo relative to Madera's system, Chukchansi's and other Madera projects' impacts on the freeway, and fees paid by Chukchansi. President Castillo thanked all involved and concurred the city and Caltrans have come a long way but cautioned Council about taxing again stating a true nexus on impacts to the freeway system were needed, and relative to Measure "C" stated concrete numbers would be needed when it goes to the voters.

On motion of Councilmember Boyajian, seconded by Councilmember, duly carried, RESOLVED, staff directed to provide an update report in six (6) months on staff's current work process with Caltrans, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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**LUNCH RECESS - 12:40 P.M. - 2:00 P.M.**

**(2:00 P.M.) CLOSED SESSION:**

**(A-2) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION (CFPEA)**

**(B-1) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: SAMUEL WEINER V. COF, ET AL.**

The City Council met in closed session in Room 2125 at the hour of 2:00 p.m. to consider the above issues and reconvened in regular open session at 2:07 p.m.

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**(2-B) APPROVE APPOINTMENT OF A COUNCIL MEMBER REPRESENTING THE CITY ON THE FRESNO COUNTY TRANSPORTATION AUTHORITY**

Acting President Perea gave a brief overview of the issue and the Authority's activities and requested he be re-appointed to another term. A motion and second was made to re-appoint Acting President Perea.

Councilmember Duncan requested this decision be delayed until next year so a review can be made of all appointments, spoke to the value and experience of serving and to the value in giving all council members an opportunity to serve, and reiterated his request that this be acted upon next year with the new council president. Councilmember Calhoun concurred with the request unless Acting President Perea would be missing some meetings. Acting President Perea stated he wanted to see if he had the support and added he did not understand the reasoning as he and council supported two other council members serving a second term. Councilmember Boyajian stated this was not about support or non-support but about procedure, and stated this was an important position, a new council member was coming on board, and he supported waiting for the new council to decide. Councilmember Calhoun explained why his reappointment to the Conservancy Board was accelerated.

A motion of Councilmember Sterling, seconded by President Castillo, to re-appoint Acting President Perea to the Fresno County Transportation Authority failed, by the following vote:

Ayes : Perea, Sterling, Castillo

Noes : Boyajian, Calhoun, Dages, Duncan  
 Absent : None

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**(2-C) RESOLUTION NO. 2004-458 - 427<sup>TH</sup> AMENDMENT TO MFS RES. 80-420 MODIFYING GREEN FEES AT RIVERSIDE AND PALM LAKES MUNICIPAL GOLF COURSES**

**144-192**

**12/7/04**

Assistant City Manager Souza noted one of the issues surrounding the city's golf course process has been what to do with Palm Lakes as it was not a viable on-going entity, advised staff has been engaged with the manager of Riverside and Palm Lakes on options, opportunities and new lay outs for Palm Lakes, and stated staff would report back in late January/early February with some options including consideration of an executive course and utilizing some of the land for another use.

Acting Parks & Recreation Director Haynes reviewed the issue as contained in the staff report as submitted and recommended the fees be increased as permitted and required by the contract.

Councilmember Calhoun questioned if this was a time sensitive issue/if the contract was up, spoke to the issue of subsidized fees and the revenues that are lost, expressed his concern with subsidizing these fees for Juniors and Seniors, and questioned why this fee issue was before council when the larger Palm Lakes issue was still out there, with Mr. Haynes responding throughout. Mr. Souza added there was a contractual requirement to increase these fees and stated the issue of Palm Lakes in and of itself warranted discussion and would be before council next year. Councilmember Calhoun noted the fees for Juniors and Seniors had not been increased for about four years and that was wrong and to be fair everyone needed to pay something, and stated the assumption that Seniors could not afford to pay or that Juniors were paying out of their milk money was wrong. Mr. Souza further clarified issues relative to fees and requested Council adopt this resolution today and direct staff to return with an analysis on how and what rate impacts would be on Juniors and Seniors. **(5 - 0)** Councilmember Boyajian spoke in support of the request and suggested staff look at Riverside and Fig Garden's fees for comparison purposes.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-458 hereby adopted, and staff directed to return with an fee impact analysis on Seniors and Juniors, by the following vote:

Ayes : Boyajian, Dages, Duncan, Sterling, Castillo  
 Noes : Calhoun, Perea  
 Absent : None

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**(2:00 P.M. #1) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:**

Upon call, no one wished to be heard.

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**(3-A) DIRECT STAFF TO DEVELOP A COMPREHENSIVE CITY-WIDE INFRASTRUCTURE PLAN TO ACCOMPLISH THE 2025 FRESNO GENERAL PLAN, INCLUDING DETAILED IDENTIFICATION OF THE NEED BY AREA, FULL COSTS AND THE FINANCIAL PLAN FOR EXECUTING THIS PLAN - COUNCILMEMBER DUNCAN**

1. UPON COMPLETION OF THE DRAFT INFRASTRUCTURE PLAN, STAFF TO CONVENE A 2025 FRESNO GENERAL PLAN INFRASTRUCTURE PLAN SUMMIT TO FINALIZE THE PLAN (SUMMIT TO PROVIDE ALL INTERESTED PARTIES THE OPPORTUNITY TO SEE THE PLAN AND PROVIDE INPUT, AND TAKE PLACE AT THE EARLIEST POSSIBLE TIME BUT NO LATER THAN JUNE 1, 2005

Councilmember Duncan gave an overview of the issue, stated infrastructure needs/options/funding sources needed to be determined and a road map was needed on how to carry the plan out, spoke to what he hoped for with a summit, stated this was not going to be cheap and he heard about \$8 billion would be needed over the next 20 years, and made a motion to approve his direction as outlined above, which motion was seconded and later acted upon.



Councilmember Calhoun stated he was supportive only if this plan was intended to deal with the future and the big global picture, stated he did not want to see the current updating of outdated fees impeded or frustrated, and added he did not want any delay in the general plan process that has been moving forward the past two years since the general plan was adopted and elaborated. Councilmember Duncan stated he made sure his request had nothing to do with the current fee evaluations, there was no attempt here to stop anything, and his only intent was to look at this issue on a global basis for the future. Councilmembers Sterling, Boyajian and Dages spoke briefly to the issue and expressed their support. Councilmember Duncan and Planning & Development Director Yovino responded to additional questions of Councilmember Calhoun relative to whether only a workshop was being talked and not approval of a budget, and what this direction would do that staff was not already doing.

**144-193**

**12/7/04**

City Manager Hobbs stated he was hearing the intent of this was to identify gaps that may exist in terms of how to get from here to there and to come up with strategies over the years to fill the gaps and get the job done.

On motion of Councilmember Duncan, seconded by President Castillo, duly carried, RESOLVED, (1) staff directed to develop a comprehensive city-wide infrastructure plan to accomplish the 2025 Fresno General Plan, including detailed identification of the need by area, full costs and the financial plan for executing this plan, and (2) upon completion of the draft infrastructure plan, staff to convene a 2025 Fresno General Plan Infrastructure Plan Summit to finalize the plan, with the summit to provide all interested parties the opportunity to see the plan and provide input and take place at the earliest possible time but no later than June 1, 2005, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

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**(3-B) REQUEST FOR UPDATE ON URBAN GROWTH MANAGEMENT (UGM) FEES AUDIT - COUNCILMEMBER DAGES**

Councilmember Dages noted the information he wanted was received and no action/discussion was necessary.

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**(2:30 P.M.) DISCUSSION AND DIRECTION REGARDING COMMUNITY INVESTMENT GRANT (CIG) FUNDING (SOCIAL SERVICES) AND THE UNITED WAY GRANT WRITER PROGRAM - COMMITTEE MEMBER/COUNCILMEMBER STERLING AND COMMITTEE MEMBER/ACTING PRESIDENT PEREA**

**1. COUNCIL COMMITTEE REPORT ON CIG FUNDING**

**(a.) APPROVE COMMITTEE RECOMMENDATION TO ACCEPT THE RECOMMENDATIONS MADE BY THE HUMAN RELATIONS COMMISSION FOR CIG FUNDING**

**(b.) RESOLUTION NO. 2004-459 - AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE CERTAIN GRANT AGREEMENTS ON BEHALF OF THE CITY, AND REPEALING RESOLUTION NO. 99-226**

**2. DISCUSSION AND DIRECTION REGARDING THE EXTENSION OF THE UNITED WAY GRANT WRITER PROGRAM AGREEMENT**

Committee Member Sterling thanked Acting Parks & Recreation Director Haynes and Council Analyst Sparks for working so well together to improve the process and commended the volunteers who volunteered so much of their time, especially Gail Gaston and Cary Catalano; spoke to the process that was undertaken to evaluate the agencies and determine funding; and relative to the grant writer program stated the issue was whether it had helped agencies, advised complaints had been made that it was not helping the smaller organizations like they helped the larger ones, and stated this was the time to hear from organizations on the issue. Committee Member Perea asked that the issues (Items #1 and #2 above) be voted upon separately. A motion and second was made to approve #1a & b.

Speaking to the issue were: Susan Bechara, House of Hope, who spoke to the need for agencies to be made more aware of how to use the resources available; Cathy Caples, Executive Director, Catholic Charities, 149 N. Fulton, support of the grant writer (GW) program, stated a couple of the program's listed successes should not have been listed and explained, and requested a United Way evaluation process be put in place; Carolyn Zutler, Fresno Area Non Profit Council; Rev. Roger Minassian, Hope Now for Youth, support for the program; Roger Palomino, Economic Opportunities Commission, 1920 Mariposa Mall, opposed to the program/recommended funds be allocated into direct services; Jose Luis Barraza, Center for Independent Living, support for the program; Cary Catalano, Human Relations Commission (HRC), who spoke to the evaluation/funding process, amount of work the HRC engaged in, and to the loss of HRC

staff **(6 - 0)**; Margarita Rocha, Centro La Familia, who spoke to the funding, the process, and in support of the program; Tim Reese, President and CEO, Community Food Bank, who spoke to the shrinking pot of funds and recommended a percentage of CDBG funds be used; Barbara Devinney, Certified Fund Raising Executive (CFRE) and Member of the Association of Fund Raising Professionals, speaking as an individual, who expressed concern with using \$100,000 of the \$475,000 for the GW program and recommended the funds be redirected to direct services; Jim Hill, 1480 E. Fremont, support; Alfonso Hernandez, Chicano Youth Center, concern with the cut in funding allocations and with the \$50,000 for the United Way Director; and Shirley Sanchez, Executive Director, Rape Counseling Service, 259 N. Blackstone, support for the program.

Upon call, no one else wished to be heard and President Castillo closed public testimony.

**144-194**

**12/7/04**

Extensive discussion ensued with Mr. Haynes, Carol Scroggins, United Way grant writer, Chief Assistant City Attorney Sanchez, City Manager Hobbs, United Way President Rich Kriegbaum and Ms. Devinney responding to questions and/or comments of Councilmember Duncan, Acting President Perea and Councilmembers Boyajian, Sterling, Calhoun and Dages relative to how the program helps small agencies, amount of dollars generated by the non-profits the last two years, how elimination of the GW program would impact the non-profits, plans for next year to strengthen the program, if organizations are asked to participate in the program/training, the program being very beneficial and successful, if staff is looking at changing the process for next year, perception of a split in the non-profits, why the program is not being changed this year, how the United Way is involved in obtaining grants, difficulty with connecting the work of the UW with the amount of dollars received by agencies, various questions on the UW's line item budget, certain expenditures that the city funds were not intended for, difficulty with the methodology and proving successes **(7 - 0)**, CDBG being the appropriate funding source, the cut in HRC funding and the volunteers doing this out of a labor of love, the scarcity of social service funds and the issue of \$100,000 going to the program when it could go towards additional help, Ms. Devinney's occupation and how she is paid, concern with the UW's budget/expenditures when HRC volunteers do not even have a phone, need to delay action to review the issue further, research done by Councilmember Calhoun and no other city doing as much for agencies as Fresno, grant writing not being an easy process and the \$100,000 not being frivolously spent, the Chicano Youth Center's and House of Hope's work with the UW in obtaining grants, necessary UW expenses involved, and support for the program.

Mr. Hobbs spoke briefly to the numbers and to the success of the program and stated the United Way was an excellent organization and apologized to them for being put "through the wringer". Councilmember Duncan added the program was critical and successful and reached hundreds of non-profits who would not receive any help from the city, and recommended action on #2 be delayed one week to allow organizations to submit a statement on their letterhead on the amount of funds they received and level of help from the UW to validate the city's return on its investment, or dispute the numbers. Councilmember Calhoun strongly opposed a delay, stated this was nonsense and the issue would take another two hours next week, and stressed a vote needed to be taken this date, all the necessary information was before Council, and called for the question/motion on the floor. Councilmember Duncan made a motion to delay action one week, which was seconded by Councilmember Sterling.

President Castillo spoke to the way the report was presented and stated there should be more scrutiny and explained, and presented questions relative to where the funds would come from for the UW's grant developer and director of grants if Council chooses not to fund this program again, the \$100,000 intended to leverage grants and not fund administrative grant positions 80%, what the actual level of hands-on involvement from Mr. Kriegbaum and Ms. Scroggins was, money being freed up due to city money funding the two positions, and percentage of Mr. Kriegbaum's time spent on non-profits, with Mr. Haynes, Mr. Hobbs and Mr. Kriegbaum responding throughout.

Brief discussion ensued on the motions on the floor with Councilmember Calhoun and Mr. Sanchez clarifying.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the recommendations made by the Human Relations Commission for Community Investment Grant (CIG) funding hereby approved, and the above entitled Resolution No. 2004-459 hereby adopted, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	None

Councilmember Calhoun made a motion to approve #2 to extend the United Way Grant Writer Program agreement as recommended by staff, and the motion was seconded by Councilmember Dages. A motion was then made to table the matter one week.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, action on the extension of the United Way Grant Writer Program agreement tabled one week, by the following vote:

Ayes : Boyajian, Dages, Duncan, Perea, Sterling  
 Noes : Calhoun, Castillo  
 Absent : None

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**(3:00 P.M.) RESOLUTION - 428<sup>TH</sup> AMENDMENT TO MFS RES. 80-420 MODIFYING THE FIRE INSPECTION FEES UNDER THE FIRE DEPARTMENT SECTION**

**144-195**

**12/7/04**

Chief Bruegman reviewed the issue as contained in the staff report as submitted.

Steve Newvine, Greater Area Chamber of Commerce CEO and United Way board member, read a statement into the record from the Chamber Board of Directors stating they could not support the proposal due to (1) the short time frame between the request for support and action this date, and (2) their concern that business owners are being forced to accept fee increases from a variety of sources; and responded to questions of Councilmember Calhoun relative to the short time frame comment **(8 - 0)** what communication the Chamber had with Chief Bruegman on the issue. Councilmember Calhoun stated he did not want the Chamber to have a feeling of no opportunity for adequate input, questioned if this matter was time sensitive (with Chief Bruegman stating it was not), and made a motion to lay the matter over one month or no later than January, which motion was seconded by Councilmember Duncan.

Discussion ensued. Chief Bruegman, City Manager Hobbs, Controller/Finance Director Quinto and City Attorney Montoy responded to questions/comments of Councilmembers Dages, Sterling and Duncan relative to what other businesses were contacted, concern with "sneaking up" on businesses with the increases, how often inspections are made, length of time for inspections, number of inspections that can be done in one day, number of inspections per inspector, amount of revenues to be generated yearly, violation process and charges, concern for small businesses, how businesses are notified inspections will take place, reason for change in inspection frequencies, gross receipts tax paid by businesses that operate within the city and amount generated annually, if those funds are directed to a specific use or go into the general fund, difficulty in understanding the difference between a fee and a tax, if fire inspections should be a tax since they are mandatory, support for a delay to obtain the Chamber's input, and businesses already paying for this service and should not have to pay twice.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the matter laid over one month (or no later than January) to obtain the Chamber of Commerce's input, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : Boyajian  
 Absent : None

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**(5:00 P.M. #1) HOLIDAY TREE LIGHTING CEREMONY**

Held.

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**(5:00 P.M. #2) HEARING ON PLAN AMENDMENT NO. A-00-23, REZONE APPLICATION NO. R-00-52, AND PROPOSED FINAL ENVIRONMENTAL IMPACT REPORT (EIR) NO. 10139, FILED BY DeWAYNE ZINKIN, PERTAINING TO APPROXIMATELY 40 ACRES OF PROPERTY LOCATED BETWEEN N. FRIANT ROAD, E. AUDUBON DRIVE, E. COLE AVENUE AND N. FRESNO STREET - FRESNO 40 DEVELOPMENT PROJECT (LOCATED IN DISTRICT 6)**

**1. RESOLUTION NO. 2004-460 - ADOPTING AND CERTIFYING FINAL EIR NO. 10129**

**2. RESOLUTION NO. 2004-461 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WOODWARD PARK**

COMMUNITY PLAN (P.A. A-00-23)

**3. BILL NO. B-138 - ORDINANCE NO. 2004-135 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-P/UGM/cz AND R-P/UGM/cz TO C-2/UGM/cz**

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Supervising Planner Haro gave an extensive PowerPoint presentation of the issue, all as contained in the staff report as submitted **(9 - 0)** and recommended approval. Bruce O'Neill, Land Use Associates, and Georgina Vivien, TPR Technologies, gave an overview of the EIR and traffic impact assessment.

Attorney Bill Brewer, 1690 W. Shaw, representing the developer, spoke further to the project and related issues, and requested Council support staff's recommendation with a modified condition for two access points instead of one and accept a voluntary \$45,000 mitigation impact fee.

144-196

12/7/04

Speaking in opposition to the project expressing various concerns and/or to other issues were: Ken McDougall, 7723 N. Mansionette; Valerie Martin-Lee, 130 E. Audubon; Paul Moore, 234 E. Portland, on behalf of Woodward Park Home Owners Association; Dr. Linda Kelsey; Beth Quick, 316 E. Audubon, who submitted a newspaper article entitled "Last Gasp" and a petition; Greg Quick, 316 E. Audubon; Linda Crane, 264 E. Moody, who spoke to the trails issue; Janet Mikkelsen, 314 E. Moody, Woodward Park Home Owner's Association member **(10 - 0)**; James Crane, 264 E. Moody; Joan Heisdorf; Vincent Correll, 840 E. Cole; William Reeve, 264 E. Loyola, who also submitted written material; and Pamela Banks, 8138 N. Orchard, who also submitted a photograph.

Continued speakers were: Dan Conniff, 645 E. Blue Ridge, who spoke in support of the project; Robert Merrill, 8540 N. Colfax, opposed; Gary Joseph, 740 E. June Lake Lane, support; Attorney Richard Harriman, representing the Woodward Park Homeowners Association, opposed and submitted written material; Leland Scott, 8385 N. Raisina, who spoke to traffic issues; and Diane Merrill, 8540 N. Colfax, opposed and who submitted her e-mail to Chief Dyer on pedestrian and bicycle safety.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Upon request of Councilmember Duncan, Mr. Haro responded to comments made by speakers relative to legal issues/concerns, big box stores, controls for review, need for a site plan, traffic concerns, and not following the Landscape of Choice, and along with City Attorney Montoy responded to questions of Councilmember Duncan relative to whether the rezone and plan amendment applied to the entire 40 acres, a site plan not being at issue this date, how a mixed-use project affects traffic patterns versus office use, Caltrans fees and the \$45,000 mitigation fee offered by the developer, if the new fee basis on this project would be applied if issues between Caltrans and the city are resolved prior to a CUP being submitted, **(11 - 0)** this being one of the last properties to bring into compliance with the 2025 general plan if approved, traffic counts exceeding the plan, and headlight barriers on Audubon. Councilmember Duncan stated a lot of time had been spent on this project and this was a good example of mixed retail/residential/office and good conditions were imposed, and made a motion to approve staff's recommendation with the acceptance of the \$45,000 voluntary mitigation fee and adding another condition of no drive-through restaurants on the property.

Councilmember Calhoun spoke to traffic issues and resident's concerns stating he was sensitive to concerns but was tired of seeing dirt out there, and presented questions relative to whether two access points made sense for moving cars through easier and faster, if he was hearing that issue needed to be looked at further, the decrease in the number of proposed housing units, if it was possible to have a reasonable housing and access point trade-off to mitigate traffic, and if the motion would allow a fast food restaurant, with Mr. Haro, Mr. Brewer, Interim Transportation Manager Benavides and Councilmember Duncan responding. Councilmember Calhoun seconded the motion on the floor.

Lengthy discussion continued with Ms. Vivien, Mr. Brewer, Mr. O'Neill, Mr. Benavides, Mr. Haro, Planning & Development Director Yovino, Developer DeWayne Zinkin and Councilmember Duncan responding to questions/comments of Councilmembers Boyajian, Sterling and Dages relative to the EIR, how fees were calculated, if mitigation measures are incorporated in the conditions, if environmental impacts will be mitigated, what the overriding considerations were for all the "F" ratings, if the master CUP would be coming back to council, how 5,000 vehicles will be monitored, difference between supermarkets and big box stores, authority being given to develop a mixed-use project, if meetings between the neighbors and developer could still occur, number of northeast neighborhood

committees, if Mr. Zinkin will commit to meeting with the committees, if the developer would consider additional housing units, if the developer was willing to work with the Regional Jobs Initiative to put people to work **(12 - 0)**, how the elimination of drive-throughs will impact the project, request by Councilmember Dages to eliminate the drive-through condition and consider it at the CUP level, if two access points could be approved this date, and various questions on access points and safety issues.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2004-460 certifying Final EIR No. 10129 dated September 2004, for the Fresno 40 Development Project as determined by the Council after having applied its own independent judgment and analysis based upon the findings noted in the Resolution and attached Exhibits A through E hereby adopted; the above entitled Resolution No. 2004-461 approving Plan Amendment Application No. A-00-23 hereby adopted; and the above entitled Bill No. B-138 rezoning the subject property adopted as Ordinance No. 2004-135 subject to the conditions outlined, *and, as amended*, to: (1) accept the \$45,000 voluntary mitigation fee from the developer, and (2) add an additional condition of no drive-through restaurants, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : Boyajian  
Absent : None

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144-197

12/7/04

**ADJOURNMENT**

There being no further business to bring before the Council, the hour of 8:39 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

**Approved** on the \_\_\_\_21st\_\_\_\_ day of December, 2004.

\_\_\_\_\_/s/\_\_\_\_\_  
Brad Castillo, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

144-198

12/7/04